

CLERK, U. S. DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
FILED  
03/12/02  
MICHAEL N. MILBY, CLERK  
BY DEPUTY N. Tippen

COURTROOM MINUTES

JUDGE MELINDA HARMON PRESIDING Numbers 4128 & 132

COURTROOM CLERK Helen Tippen

COURT REPORTER Gayle Dye

LAW CLERK: Nancy Benjamin

MORNING 4:05 AFTERNOON \_\_\_\_\_

SESSION 4:25 SESSION \_\_\_\_\_

DATE: March 12, 2002

\*\*\*\*\*

CIVIL ACTION NO: H-01-3624

APPEARANCES:

MARK NEWBY, et al.

Helen Hodges, James Jaconette,  
Roger Greenberg

vs.

ENRON CORPORATION, et al.

Nancy Temple, non-party

Shan Wu

\*\*\*\*\*

CIVIL ACTION NO: H-01-3913

APPEARANCES:

PAMELA TITTLE, et al.

Justin Campbell

vs.

ENRON CORPORATION, et al.

Nancy Temple, non-party

Shan Wu

\*\*\*\*\*

DOCKET ENTRY

(MH) TELEPHONE CONFERENCE

(Rprr- G. Dye )

Telephone Conference held on faxed letter from lead counsel for  
pltfs requesting Court intervention as to the appearance on non-  
party Nancy Temple at a deposition scheduled in Houston on March  
14, 2002. The Court ORDERS Ms. Temple to appear as scheduled, as  
stated on the record.

\*\*\*\*\*

376

# Milberg Weiss Bershad Hynes & Lerach LLP

401 B Street, Suite 1700, San Diego, CA 92101-4297  
(619) 231-1058 Fax: (619) 231-7423

www.milberg.com

New York  
San Francisco  
Los Angeles  
Boca Raton  
Seattle

March 12, 2002

VIA FACSIMILE  
713/250-5431

The Honorable Melinda Harmon  
U.S. District Court  
Southern District Texas  
515 Rusk Avenue  
Houston, TX 77002

Re: *In re Enron Securities Litigation*

Dear Judge Harmon:

Your January 23 Order Prohibiting the Destruction of Evidence, Granting Limited Discovery, and Providing Other Relief, lifted the PSLRA stay for the limited purpose of allowing the depositions of Andersen employees, including five partners in the Houston office and Chicago-based Nancy Temple, the author of the October 12, 2001 e-mail about the Andersen document retention and destruction policy. We write to request a conference-call hearing on a discovery issue, which you have indicated is something you would be available for.

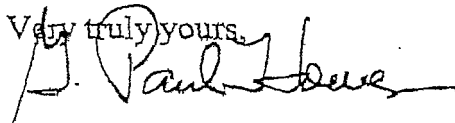
The parties have taken the depositions of Bauer, Duncan, Lowther, Odom, and Goddard, as provided for in the January 23 Order, as well as follow-on depositions of engagement-team manager Kim Latham, Duncan's executive assistant Shannon Adlong, and Practice-Management Group supervisor Mike Luna on document-destruction issues. As a result of Luna's deposition, we have scheduled the deposition of Sharon Thibaut, the employee who processed documents slated for shredding, for March 13, as well as Ms. Temple's deposition, which was originally scheduled for March 4, then rescheduled for March 13. The deposition for the 14th has been set for more than a week and we even moved it one day to accommodate her counsel's schedule.

This morning, just hours before I was to fly from San Diego to Houston for the Thibaut and Temple depositions, I received the attached letter from Temple's lawyer, which informed me that "[f]or a variety of reasons" Ms. Temple and her counsel would not appear in Houston on Thursday. I immediately placed a call to Mr. Hansen to inquire as to what he meant by "a variety of reasons," but was told he was on his way to the Department of Justice. We are fearful, having acceded to Mr. Hansen's request to postpone the previously set dates to accommodate Ms. Temple's interviews at DOJ, that we will now be, because of a plea or otherwise, somehow foreclosed from her testimony about document destruction, which began following her October 12 e-mail "reminding" the engagement team about compliance with the documentation and retention policy at Andersen. After leaving my original message, and a follow-up letter, I called again, but, in his and his assistant's absence, I was told none of his partners could address this matter.

The Honorable Melinda Harmon  
March 12, 2002  
Page 2

Lead Counsel in the *Newby* and *Tittle* actions request that the Court order Ms. Temple and her counsel to appear as scheduled on Thursday, March 14. Lead Counsel is available at 4:00 p.m. Texas time this afternoon, and we will make arrangements to have the conference call made to 713/250-5195. Appearing for Lead Counsel will be Helen Hodges, James Jaconette, and Roger Greenberg for the *Newby* plaintiffs, and Clyde Platt for the *Tittle* plaintiffs. By copy of this letter, based on the assurances from his staff that he has my message about seeking relief, Mr. Hanson should appear for Ms. Temple. Thank you for the Court's accommodation to hear this discovery dispute.

Very truly yours,

  
G. PAUL HOWES

WSL:mm

cc: Clyde Platt  
Mark C. Hansen  
Roger Greenberg

N:\ccy\mom\Howes\harmon.lrl

KELLOGG, HUBER, HANSEN, TODD & EVANS, R.L.L.C.

SUMNER SQUARE  
1815 M STREET, N.W.  
SUITE 400  
WASHINGTON, D.C. 20036-3208

(202) 326-7900

FACSIMILE:  
(202) 326-7999

March 12, 2002

WRITER'S DIRECT DIAL: 202-326-7904

WRITER'S E-MAIL ADDRESS:  
mhansen@khhte.com

Via Facsimile

G. Paul Howes, Esq.  
Milberg, Weiss, Bershad, Hynes & Lerach, L.L.P.  
401 B Street  
Suite 1700  
San Diego, CA 92101-4297

Re: Mark Newby, et al. v. Enron Corp., et al.,  
C.A. No. H-01-3624  
Pamela Tittle, et al. v. Enron Corp., et al.,  
C.A. No. H-01-3913

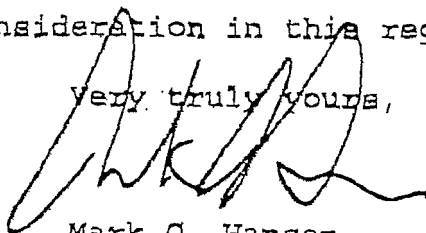
Dear Mr. Howes:

I write with regard to the deposition of Nancy Temple. We had previously scheduled her deposition for March 14. For a variety of reasons we are going to have to reschedule, and accordingly will not be able to appear in Houston this Thursday. I wanted to make sure that you knew this in advance of the 14<sup>th</sup> so you do not travel or otherwise suffer unnecessary inconvenience.

As I may not have all the names of the counsel who need to be notified of this scheduling change, I would appreciate it if you would either forward this letter or otherwise communicate with all counsel of record regarding the postponement of Ms. Temple's deposition.

Thank you for your consideration in this regard.

Very truly yours,

  
Mark C. Hansen